

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: SOLID WASTE & RECYCLING

DATE: JANUARY 18, 2006

Committee Members Present:

Supervisors	Monroe	Richard McCarthy, President, Environmental Capital LLC
	Tessier	Paul Dusek, County Attorney
	Belden	William Thomas, Chairman
	Champagne	Joan Parsons, Administrator/Clerk
	Mason	Supervisor Kevin Geraghty
	Stec	Supervisor William VanNess
	Merlino	Supervisor Daniel Girard
		Katy Goodman, Secretary to the Clerk

Mr. Monroe called the meeting to order at 10:30 a.m.

Motion was made by Mr. Mason, seconded by Mr. Champagne and carried unanimously to approve the minutes of the previous meeting, subject to correction by the clerk.

Mr. Monroe stated the purpose of the meeting was to hear a report from Richard McCarthy, President of Environmental Capital LLC, on his review of the "Preliminary Draft Landfill Assessment of the 475-acre property in Hartford, NY for Washington and Warren Counties," that was prepared by the HDR engineering firm. He noted the committee members had previously received copies of the Assessment for their review. A copy of the Assessment is on file with the minutes. Mr. Monroe advised that Mr. McCarthy had discussed the Assessment extensively with Mr. Dusek. Mr. Monroe stated because there were a lot of legal issues involved with the matter he had asked Mr. Dusek to attend the meeting.

Privilege of the floor was extended to Mr. McCarthy. He concurred that Mr. Dusek and he had discussed the Assessment considerably. He stated as a result they had determined they had many questions about the Assessment particularly about the numbers in it and how they had been put together and what was being compared to arrive at them. Thus, Mr. McCarthy said they decided to make recommendations on the situation but it was probably not a good idea for the committee members to make any decisions on the numbers until they had more definite information on them. He said he felt it was worthwhile for him to provide the committee members with a progress report on the Assessment due to the complexities of the issue and that a lot of apples and oranges were going on about it. Mr. McCarthy said he would discuss some of the aspects of the Assessment that did make sense and some of the alternatives available and perhaps some ways of thinking about the alternatives. Then, he said they could firm up the numbers more and answer the questions and make recommendations.

Mr. McCarthy stated he had prepared an Outline of the Assessment and what it did and some of

the issues that came out of it. He commented he was not sure how much of the information in the Outline's Introduction the committee members had already processed so they were welcome to stop him if that became the case. Copies of the Outline were distributed to the committee members and a copy is on file with the minutes.

Mr. McCarthy commenced with review of the Introduction (Section A) with the committee members. He noted in particular the 475-acre size of the site was ample room for a cell or group of cells plus a fair amount of room for buffer space if that was what was decided to do with the property. Mr. McCarthy stated the fact that the site has been permitted for an ash by-pass and non-processible waste site showed that it was a good site for a landfill. He apprised at the present time the site is permitted for disposal of up to 147 tons of waste per day.

Mrs. Parsons entered the meeting at 10:39 a.m.

Continuing, Mr. McCarthy commented that from a practical standpoint it was his experience that having a permitted site makes all the difference because permits for any type of solid waste activity are very difficult to obtain. In addition, he said once a permit is in place it is much easier to change it to allow other solid waste activities than it is to secure one in the first place. Mr. McCarthy advised the activities presently permitted at the site could be changed to allow it to be a municipal solid waste (MSW) facility if that was how the counties decided to use it.

Mr. Champagne asked if MSW was not the most undesirable waste to collect compared to the other types of waste. Mr. Dusek responded that was not necessarily the case. For example, he apprised that currently the annual cost to dispose of the ash from the Hudson Falls Resource Recovery Facility (HFRRF) was \$1.7 million, but if the ash could be sent to this facility it would be a significant asset. However, Mr. Dusek agreed the by-pass and non-processible waste would be less significant, but as Mr. McCarthy had mentioned if they allowed construction & demolition (C&D) waste to be disposed of at the site it could become part of an asset. Although, Mr. Dusek said Mr. McCarthy and he had had difficulties in wrestling with the numbers to see if that would make sense.

Mr. Tessier entered the meeting at 10:40 a.m.

Mr. Dusek stated he felt it was important to stress that as MSW is all the waste that is now going to the HFRRF they legally could not use the landfill for it because under the contracts with the Warren-Washington Counties Industrial Development Agency (IDA) and the facility MSW has to go to the HFRRF until 2012. In addition, he explained MSW is not permitted at this landfill and in order to dispose of it there SEQRA reviews and extensive permit modifications would probably be required. Mr. Dusek noted he thought that was in the Assessment but he was not completely sure. In addition, he said, he thought that bringing MSW into the communities might also cause objections and to make that really work they would have to be looking at large volumes of such waste and whether or not the counties would want to get into that situation. Mr. Monroe advised Mr. McCarthy and he had spoken at length about the fact that in other areas of the state when

landfills are used for MSW the numbers are huge. Mr. McCarthy concurred that he would discuss that aspect at some point today.

Mr. Belden entered the meeting at 10:41 a.m.

Mr. McCarthy provided Messrs. Tessier and Belden with copies of the aforementioned Outline of the Landfill Assessment and noted the Introduction was being discussed at this point in the meeting and he reiterated the previous discussion for their information.

Mr. W. Thomas entered the meeting at 10:43 a.m.; and he was provided with a copy of the aforementioned Outline.

Continuing with his review of the Outline, Mr. McCarthy stated there was a Host Benefit Package with the Town of Hartford which was summarized in the Outline (Item No. 8 a and b). He commented the town would receive a fair amount of money. Mr. Dusek stated he felt it was important for the supervisors to really take a look at the Package because it had been discussed quite a bit and there had even been some thought that it was horrible. Although, he noted, the numbers shown were subject to further crunching with Mr. McCarthy on what the impact of everything was, initially the numbers did not look all that bad if the Package was used as it was intended to be. However, Mr. Dusek said the problem with the Town of Hartford was that if the counties wanted to make any kind of changes to the landfill or sell it to somebody else the town has raised the issue that they would not honor this particular Package.

Mr. McCarthy noted the Introduction of the Outline was concluded. He said he did not know how much (Warren) County had invested in this site. Mr. Monroe responded he thought that initially the county had put up all the money but in 1999 they had negotiated a deal to receive half of the costs. Mr. Dusek confirmed that was correct; and he said Mrs. Parsons would know what the figures were. Mr. Belden said he thought the amount was \$2.5 million.

Privilege of the floor was extended to Mrs. Parsons and she apprised according to the 2005 County budget the county still owed \$1.8 million which probably would be a little bit less in 2006. She noted a copy of the 2006 County budget was not in the Board Room at that point. Mr. Monroe said he believed Mr. Tessier was correct that the county paid Washington County \$2 million, but after considerable negotiations for several years the agreement was that each county's final share was \$1.6 million for a \$3.2 million total. He stated the Assessment document said that Warren County did not have any money in the landfill and that the total cost was \$700,000 which also was not correct. Mr. Dusek agreed. Discussion followed.

Mr. Stec entered the meeting at 10:45 a.m.

Mr. Monroe concurred with Mr. McCarthy that a construction company had also made an offer of \$3.2 million for the property. Mr. McCarthy said that was the status of the situation at this point.

Mr. McCarthy stated the two counties had contracted with HDR engineering consultants to look at three scenarios for dealing with the site and to prepare a report on them (the Draft Assessment). Relative to these scenarios, Mr. McCarthy reviewed his Outline (Section B Item Nos. 1-3) with the committee members. He pointed out the first scenario was to develop the site as an ash, by-pass and non-processible waste landfill, which it is currently permitted for. The second scenario, he said was to develop it as a MSW landfill with some C&D after 2012 when the counties' contract with Wheelabrator, operator of the HRRF, expires. Mr. McCarthy stated if the county wished to continue to provide solid waste services after then a disposal site would be needed as an alternative to another contract with Wheelabrator. He stated the third scenario would be to develop the site as a C&D landfill using ash as the daily cover.

Mr. McCarthy stated regarding Mr. Dusek's and his questions about the numbers in the Assessment because they were not able to answer each other's questions they would like to obtain some firm answers to them in order to compare the numbers correctly and not to misinterpret the Assessment. They would then bring a more firm report on the Assessment back to the committee members, he said.

Mr. Dusek outlined an example of a question he had concerning the figures on the disposal of the ash. Although, he noted he had said earlier in the meeting the annual disposal costs for the ash were \$1.7 million they are actually closer to \$1.8 million and the counties were locked into that rate until 2007 but four to five years would remain on the contract after that. Thus, Mr. Dusek apprised when he calculated the \$1.7 annual cost times five years the total was \$7.2 million but the Assessment showed the cost to construct the landfill would be \$2.8 million. Mr. Dusek advised his question was how much could it possibly cost to operate the landfill and would it not make sense to dispose of the ash there as a savings to the County. However, he said the Assessment stated that would not make sense because the costs would be too high and different numbers were used in the table in the back of the document which made it look like the County would have a net loss. Mr. Dusek acknowledged the Assessment may be correct, but that was the type of questions that kept coming up to them. Thus, he stated they have some concerns about the numbers and it was hard to say which of the scenarios was better without having the numbers.

Mr. Dusek suggested that Mr. McCarthy should discuss with the committee members the MSW global concept that they had discussed although it is not authorized, i.e., what would potentially be available at the site even though it is not permitted. Mr. Monroe advised there were some legal issues associated with that matter which should probably be discussed in an executive session.

In reply to Mr. Geraghty's query on what was now at the landfill site, Mr. Monroe said nothing had been done at the site such as liners, etc. Mr. Geraghty cautioned it was very costly to build a landfill, and he stated it had cost the International Paper (IP) company \$17 million just for one cell for a sludge landfill. Mr. Monroe acknowledged the information, and he added there would be other costs such as for closure and long term monitoring. Mr. McCarthy said he thought HDR had tried to do that. However, he said the question was whether their numbers were correct and he

would leave it up to them to make a presentation to the committee about why that was the correct number. Mr. McCarthy stated even if their numbers were accepted Mr. Dusek and he still had questions about how the analysis worked, etc. For example, he said just looking at the ash and the by-pass HDR had said it did not look very economical and their table showed a cost of \$69 per ton for the ash landfill as opposed to the \$21 they said it costs now. However, Mr. McCarthy noted the problem with the \$21 figure was that it did not include the transportation costs. He concurred with Mr. Monroe that with the transportation costs the total cost was more like \$40+ per ton which did not compare very well with \$69 per ton. Mr. McCarthy stated when Mr. Dusek and he looked at the current \$1.7 million being paid now, which would be eliminated in 2012, they did not think HDR had included it as a credit, but perhaps they had not been able to find it. Those costs would be an offset to what appears to be an uneconomical proposal as it is presented in the Assessment, he said.

Continuing, Mr. McCarthy commented on other hand he thought where HDR came up with the \$69 per ton figure was based on the assumption that the landfill would be operated over 20 years which would allow the debt to be amortized over 20 years. He stated that was not clear in the numbers but he would guess that was the way the firm would do it. Mr. McCarthy explained that did not commit the counties to dispose of the ash but economically in the analysis it did so. He stated the counties could not have a contract with Wheelabrator and still provide the ash for the plant and if the numbers worked out perhaps some money could be made on it. However, Mr. McCarthy noted that was a complication because they would definitely need ash disposal until 2012 and after that.

Discussion ensued, and Mr. Champagne expressed concern that the Assessment appeared to not address the issue of MSW disposal or provide numbers for it. He referred to Page 22, Section 5.1, Needs Assessment, and pointed out that it said each of the counties would need to assess the need for a facility to dispose of MSW. He commented it seemed another expensive study would have to be done on that issue. Mr. Dusek concurred that he also had a lot of questions about the information in the Assessment. He stated Mr. McCarthy and he concluded it was a very very rough Draft with a number of errors and it did need some work in order to be useful to the counties.

Mr. Tessier asked if it was correct that if Washington County decided to sell the property they could do so. He noted from speaking with the Washington County supervisors they were pretty set on selling the property to the Galusha firm. Mr. Tessier stated Warren County needed to look at how to protect the \$1.6 million it has invested in the property. He asked if that amount would be returned to the county or would they receive the \$1.6 million plus the interest on the money it had lost since 1992. Mr. Monroe asked Mr. Tessier if he thought the Washington County supervisors wanted to sell to Galusha or if it was just the Town of Hartford that did so. Mr. Monroe noted he had spoken with some of the Washington County supervisors and it seemed they wanted to sell but he was not sure if they were committed to selling to the Galusha firm. Mr. Tessier acknowledged he was not sure if that was the case or not but, he said the supervisors did want to sell the property. However, he said an RFP (Request for Proposals) could not be put

out without a Host Benefit Package and the current one was not what they were looking for. He recalled when the supervisors from the two counties met to discuss this property although there was extensive discussion about the Package and its details were supposed to be provided that was never done.

Mr. Dusek advised one of the reasons they put together the Assessment was that even if the final decision was to just sell the property he thought from discussions he had been involved in that Washington County had shown an interest in possibly doing an RFP to solicit proposals other than the one they had. If, he said an RFP was going to be done the information in the Assessment would be needed together with Mr. McCarthy's numbers for the RFP in order to get good responses to it. For example, Mr. Dusek expressed concern that the property could be sold to someone who would secure a MSW permit which would then make it very valuable and the county had just given it away. He stressed that any RFP should be very carefully prepared and that it should be done first. Secondly, Mr. Dusek stated it was also important that the Assessment was prepared to provide Washington County information to base their decisions on before they more or less just gave the property away. He pointed out that Washington County had joined this county in having the Assessment prepared. Mr. Dusek commented he felt they were heading on the right path but there was still a lot of work to be done.

Discussion ensued about what was included in the Host Benefit Package, and Mr. Dusek responded that was outlined in Mr. McCarthy's information. Although, he noted the Package was not a bad one he would agree with Mr. Tessier that it was not what Hartford wanted. He explained Hartford wanted to extensively revise the terms of the Package and they have also said they want to interview all the respondents and decide who they thought was the best one. However, Mr. Dusek said as their decisions might not be in the best interest of the two counties that concept had created a lot of trouble. Mr. Monroe suggested as the meeting's scheduled time was running short that Mr. McCarthy should be allowed to finish his presentation and that some time was needed to discuss the legal issues in executive session.

Mr. McCarthy referred to his Outline and stated the second scenario they had asked HDR to look at was to develop a MSW landfill with some C&D after 2012 and the alternatives that would be available at that point were listed.

Mrs. Parsons left the meeting at 11:02 a.m.

Continuing, Mr. McCarthy noted relative to the alternative of negotiating a (disposal) arrangement with an area landfill several of his clients, for example DANC (Development Authority of the North Country) and Franklin County's Solid Waste Management Authority (FCSWMA) would want to take the counties' waste. However, he noted it was anyone's guess what the situation would be like in 2012. Mr. McCarthy explained DANC had a fairly good sized regional landfill in Jefferson County just south of Watertown. He stated based on the assumption that the counties did not sell the Hartford site to develop it for MSW was another alternative. The fourth alternative, Mr. McCarthy said would be to get out of the waste disposal business entirely and whether that

was a viable alternative or not he would leave up to the committee to think about.

Mr. McCarthy reviewed the third scenario which was to develop the site as a C&D landfill using ash as daily cover. He commented that method seemed to be very economical from the numbers in the Assessment, and as Mr. Dusek had said that would be another way the county would receive credit for the \$1.7 million dollars. Mr. McCarthy advised Mr. Dusek and he did not discuss those numbers. However, he said after they talked he had thought further about the numbers and he would ask if they were correct, then Washington County provided C&D disposal but they only received a small amount of that type of waste that is generated in the county. Mr. McCarthy commented if that analysis was correct it raised the question if the county would want to get into the C&D business now or in the future because it might put them in the same position they are in now where they have a certain-sized facility and not enough waste to fill it. That would affect the amount of ash generated, he added. Mr. McCarthy advised that question was not answered in the Assessment and he was not sure if an answer would come from the Assessment. He concluded the question was ultimately a political/business question for the county to decide. However, Mr. McCarthy said on the face of the analysis that was the most attractive of the three alternatives.

Continuing, Mr. McCarthy spoke on Item No. 4, Sale of the Property. He explained they did not ask HDR to look at that scenario but there was the aforementioned offer of the \$3.2 million for it. Mr. McCarthy said in the past couple of years a number of private partnerships for landfills have been made around the state. The first partnership, he said was between Clinton County and the Casella firm and the county received a variety of benefits from the deal which included \$10 million dollars in cash. The firm then obtained permits for a substantial amount of additional property and the site is currently permitted for 175,000 tons/year, he added. Mr. McCarthy apprised the disposal costs are \$54.75/ton which was quite expensive and the county receives a host fee of \$2.50/ton which is a little less than what it is in the agreement with Hartford.

Mr. McCarthy stated other counties that have privatized their landfills were Monroe, Chemung and Ontario. Chemung County's arrangement with Casella was for a 25-year lease and aggregate payments of \$93 million dollars assuming all the assumptions played out over the lease, he said. Mr. McCarthy apprised the initial payments were \$2 million/year up front and \$1 million annually for 80,000 tons/year capacity which would increase to \$4 million/year based on the assumption that the site is expanded significantly to a capacity of 280,000 tons/year. Mr. Monroe noted HDR's analysis of 5.8 million tons/year for MSW capacity (Item No. 4 d) would be in the range of 280,000 tons/year if it were assumed a permit could be obtained for that capacity and the site would last 20 years. Mr. McCarthy concurred. He noted among other good benefits Chemung County received were that Casella covered the closure costs for the site and the in-county disposal rate is \$45/ton. Mr. McCarthy stated Ontario County's partnership was also with Casella and it was for \$2 million at the closing and \$2 million a year for 25 years plus an additional \$7.5 million when an expansion permit is received and another \$7.5 million when they obtained some other permits. In addition, he said the county is paid 25% of the gross revenues in excess of \$34/ton so he would guess the current tipping fees were around \$35/ton and if the

fees increased the county would benefit. He stated the county also receives a tipping fee of \$29/ton for all in-county waste and Casella agreed to provide the county with \$13.9 million in economic development benefits. He noted Monroe County's partnership was with Waste Management and although the numbers were big their arrangement was not as lucrative as the other two counties and the company had bailed them out and paid off their bonds.

Continuing, Mr. McCarthy advised he was not saying the county should sell this landfill because it could get \$93 million for it because of the variables of the waste business. The question, he said was whether the waste companies would feel they could make money and if the county could get two or three companies that felt that way then they could extract a certain amount of value for the property. Mr. McCarthy noted such factors as distance from the Northway and how much other partnerships had cost the waste companies might affect what would be offered. However, he said the bottom line was that they would not know what they could get for the site until they actually sold it but there were reasons to believe they might get a fair amount of money. Mr. Monroe asked if based on the numbers in the Assessment a sale would bring in substantially more than the other two alternatives. Mr. McCarthy responded he did not know. However, he said if the two counties did decide to do that they could go through the process needed to see if there was any interest which would be to solicit and hear proposals to see what companies would do.

Mr. Monroe said first they would have to negotiate a reasonable Host Benefit Package with Hartford as it seemed the property could not be sold under the previous terms they had set forth, which were for the RFP to be put out and then let the respondents negotiate the Package with Hartford. He commented no one would bid on the property under those terms. Mr. McCarthy responded he did not know if that was the case and he thought they needed to think about it further as he did not know what the bargaining leverage would be with them. He stated the waste companies would know what the money was in the package more than the county would.

Mr. W. Thomas asked Mr. McCarthy if he was saying that perhaps it was not necessary to have Hartford's Host Benefit Package in place before any RFP's were sent out. Mr. McCarthy replied he meant that was a possibility.

Discussion ensued, and Mr. Dusek confirmed the legal aspects of the issue could be discussed in executive session because they concerned the value of a property the county had an interest in.

Mr. Monroe stated there was another matter to be handled before the executive session was called. He advised there was a need to create a new bi-county entity which was discussed by the Warren-Washington Counties Intercounty Solid Waste Coordinating Committee. He explained Robert Morris is the attorney for that Committee and he is now the attorney for the Town of Hartford so the Intercounty Committee could not obtain legal advice from him on the negotiations with Hartford. Mr. Monroe advised the Intercounty Committee had discussed establishing a bi-county ad hoc negotiating committee to deal with the Hartford property with the advice of the two county attorneys. He noted this committee would be like the ad hoc one that was established to

handle the negotiations for the Burn Plant. He concurred with Mr. W. Thomas that the same people would be members of the committee as those who now represent Warren County on the Intercounty Solid Waste Coordinating Committee who are Mr. Monroe and Mr. Tessier. Mr. Monroe asked for the committee members' approval of a resolution to establish the aforementioned bi-county ad hoc committee.

Motion was made by Mr. Belden and seconded by Mr. Stec to approve the aforementioned request, as presented.

Mr. Champagne recalled he was a member of the aforementioned ad hoc committee for the Burn Plant negotiations. Mr. Monroe said there could be just the two members or it could be expanded. Mr. Champagne responded it was up to Mr. Monroe but he did not need to be on the committee. Mr. Monroe asked Mr. W. Thomas for his input as he would make the appointments. Mr. W. Thomas replied he thought only two members were needed; and Mr. Tessier concurred. Mr. Tessier stated the meetings were open to everyone who wanted to attend. Mr. Monroe said the meetings would be held right after the meetings of the Intercounty Solid Waste Coordinating Committee.

Mr. Belden amended his motion to approve the appointments of Mr. Monroe and Mr. Tessier to represent Warren County on the Bi-county Ad Hoc Committee for Hartford Landfill Negotiations.

Mr. Stec seconded the motion, as amended, and the motion was carried unanimously. The necessary resolution was authorized for the next board meeting.

Mr. VanNess and Mr. Girard entered the meeting at 11:19 a.m.

Mr. Monroe requested an executive session to discuss the value of a property the county had an interest in.

Motion was made by Mr. Belden, seconded by Mr. Mason and carried unanimously to declare executive session pursuant to Section 105(h) of the Public Officers Law.

Executive session was declared from 11:20 a.m. to 11:37 a.m.

Committee reconvened.

Motion was made by Mr. Belden, seconded by Mr. Stec and carried unanimously to take the next steps regarding the Hartford property as outlined in Item C of Mr. McCarthy's Outline of the Preliminary Draft Landfill Assessment of the 475-acre Property in Hartford, NY for Warren and Washington Counties.

There being no further business, on motion by Mr. Stec and seconded by Mr. Mason, Mr. Monroe adjourned the meeting at 11:37 a.m.

Respectfully submitted,

Katy Goodman, Secretary to the Clerk